

STATE OF INDIANA

ERIC J. HOLCOMB, Governor

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OPINION OF THE PUBLIC ACCESS COUNSELOR

CHRIS KYNER,)	
Complainant)	
v.) 17-FC-44	
MARION COUNTY CLERK'S OFFICE)	
Respondent)	

ADVISORY OPINION April 10, 2017

This advisory opinion is in response to the formal complaint alleging Marion County Clerk's Office (Juvenile Davison) ("Clerk") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-1.5-1 et. seq. The Clerk has not responded despite an invitation to do so on March 3, 2017. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on February 24, 2017.

BACKGROUND

The formal complaint filed on February 24, 2017 alleges the Marion County Clerk's Office violated the APRA for lack of response to a document request.

On February 6, 2017, a records request was sent to the Clerk requesting information regarding three (3) cases, which included probable cause affidavits, or other law enforcement case reports, witness statements and/or depositions for three (3) cases of which he was a party. The Complainant included two (2) copies of his prison ID with his request to verify his identity. To date there has not been a response by the Clerk acknowledging the requested information.



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ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See Indiana Code § 5-14-3-1*. The Marion County Clerk's Office is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the Clerk's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

A request for records may be oral or written. See Indiana Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Indiana Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

The Complainant's records request was sent February 6, 2017. He was entitled to a response within seven (7) days of the Clerk's receipt of the record. Without the benefit of the response by the Clerk, I cannot opine whether the omission was justified.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Marion County Clerk's Office (Juvenile Division) has violated the Access to Public Records Act.

Luke H. Britt

Public Access Counselor